

## **ABUSES OF THE USA PATRIOT ACT**

**Prepared by the House Judiciary Democratic Staff**

*While some have suggested that no abuses have occurred under the USA PATRIOT Act, the simple truth is that it appears that abuses have indeed occurred. The following are examples:*

### **SECTION 215, Seizure of Records or “Any Tangible Thing”**

- Since 9/11, the American Library Association found that libraries have received over 200 formal and informal requests for materials, including 49 requests from federal officers

### **SECTION 218, Coordinating Criminal and Intelligence Investigations**

- Abuse in the Brandon Mayfield case: The FBI used Section 218 to secretly break into his house, download the contents of four computer drives, take DNA evidence and take 355 digital photographs. Though the FBI admits Mr. Mayfield is innocent, they still will not divulge the secret court order to him, or allow him to defend himself in court. It is unclear how the search was for any reason but to find evidence incriminating Mr. Mayfield.

### **SECTION 805, Material Support for Terrorism**

- Section 805 has been found UNCONSTITUTIONAL by three separate courts. The 9<sup>th</sup> Circuit found the provision prohibiting “personnel” and “training” was overly vague. The Central California District Court found the provisions prohibiting “expert advice and assistance” was overly vague. A New York District Court found the provisions prohibiting “personnel” and acting as a “quasi-employee” overly vague. In each instance, the courts found COMPLETELY LEGAL ACTIVITIES would violate Section 805.
- Abuse in Lynne Stewart case: A District Court threw out charges of materials support against Lynne Stewart, holding that the law makes ANY action by a lawyer in support of an alleged foreign terrorist client illegal, including providing legal advice.
- Abuse in Sami Al-Hussayen case: A federal jury in Idaho acquitted University of Idaho graduate student Al-Hussayen on all charges of providing material support for a terrorist organization by running a website for the Islamic Assembly of North America. Importantly, this group is NOT on the list of foreign terrorist organizations, and the links posted by Al-Hussayen were available on the GOVERNMENT’S own website.

### **SECTION 213, “Sneak and Peek” Searches**

- In a July 5, 2005 letter to Rep. Bobby Scott, DOJ said Section 213 had been used 153 times as of 1/31/2005; ONLY EIGHTEEN(11.8%) uses involved terrorism investigations. Thus, ALMOST 90% of “sneak and peek” warrants were used in ordinary criminal investigations: 97 warrants were used in drug investigations and 38 were used in other criminal investigations.
- Abuse of delays: In April 2005, DOJ said 90-day delays are common, and that delays in notification have lasted for as long as 180 days. In May 2003, DOJ said its longest delay was 90 days.
- Abuse of delays for “unspecified times”: Delays may be sought for an unspecified duration, including until the end of the investigation. In one such case, the delay lasted 406 DAYS.

- Abuse of delay extensions: In May 2003, DOJ reported it had asked for 248 delay notification extensions, including multiple extension requests for a single warrant, and that the courts had granted EVERY SINGLE REQUEST.
- Abuse of “catch-all provision”: In an April 4, 2005 letter to Chairman Sensenbrenner, DOJ reports 92 out of 108 (85%) sneak and peek warrants were justified because notification would “seriously jeopardize the investigation” and in 28 instances that was the sole ground for delaying notice.

### **SECTION 505, National Security Letters**

- Section 505 has been found UNCONSTITUTIONAL. The Southern District of New York held Section 505 violated the 1<sup>st</sup> and 4<sup>th</sup> Amendments. Section 505 places a prior restraint on free speech with its gag order, and it prevents due process by barring the recipient’s access to the courts. Specifically, an Internet Service Provider was unconstitutionally coerced to divulge information about email activity and web surfing on its system, and the ISP was then gagged from disclosing this abuse to the public.

### **SECTION 411, Revocation of Visas**

- Abuse in Tariq Ramadan case: Professor Ramadan’s visa to teach at Notre Dame was revoked upon charges that he supported terrorism; Notre Dame, Scotland Yard, and Swiss intelligence all agree the charges were groundless.
- Abuse in Dora Maria Tellez case: Nicaraguan Professor Tellez was denied her visa to teach at Harvard due to her association with the Sandinistas in the 1980s, where she helped to overthrow a brutal dictator whom the U.S. supported.

### **PROTECTION MASS TRANSIT**

- Oddly, New York law enforcement has begun using the provision of the PATRIOT Act that protects against attacks on mass transit to forcefully kick homeless persons out of the New York train stations.